

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

MARIE ASSA'AD-FALTAS, MD, MPH,)
)
Petitioner,)
)
vs.) Case No. 1:14-cv-04811-TLW
)
)
THE STATE OF SOUTH CAROLINA)
and THE CITY OF COLUMBIA,)
SOUTH CAROLINA,)
)
Respondents.)
)
_____)

ORDER

Petitioner Marie Assa'ad-Faltas filed this pro se habeas petition pursuant to 28 U.S.C. § 2254, challenging a 2013 conviction in the Columbia Municipal Court. (Doc. #1). This matter is before the Court for review of the Report and Recommendation ("the Report") filed by United States Magistrate Judge Shiva V. Hodges, to whom this case was assigned pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(c), (D.S.C.). In the Report, the Magistrate Judge recommends that this Court dismiss the petition without prejudice. (Doc. #6). Petitioner filed timely objections to the Report on January 23, 2015 (Doc. #8), and a supplement thereto on January 26, 2015 (Doc. #9). This matter is now ripe for disposition.

In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections.... The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the report and recommendation to which no

objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992) (citations omitted).

The Court has carefully reviewed the Report, Petitioner's objections, and Petitioner's supplemental objections in accordance with this standard, and it concludes that the Magistrate Judge accurately summarizes the case and the applicable law. Accordingly, it is hereby **ORDERED** that the Report and Recommendation is **ACCEPTED** (Doc. #6), and Petitioner's objections thereto are **OVERRULED** (Doc. #8). For the reasons articulated by the Magistrate Judge, the petition is **DISMISSED** without prejudice.

Petitioner also filed a motion for a preliminary injunction, asking the Court "to enjoin South Carolina's Court of Appeals from sending the remittitur without distributing the petition for rehearing to the court *en banc*" and "to retain jurisdiction to allow Dr. Assa'ad-Faltas to immediately resort to this Court in case the City of Columbia erroneously attempts to take Dr. Assa'ad-Faltas into custody." (Doc. #10). In light of the Court's dismissal of this case, the motion for a preliminary injunction is hereby **DENIED** as **MOOT**. (Doc. #10).

The Court has reviewed this petition in accordance with Rule 11 of the Rules Governing Section 2254 Proceedings and concludes that it is not appropriate to issue a certificate of appealability as to the issues raised herein. Petitioner is advised that she may seek a certificate from the Fourth Circuit Court of Appeals under Rule 22 of the Federal Rules of Appellate Procedure.

IT IS SO ORDERED.

s/Terry L. Wooten

Terry L. Wooten
Chief United States District Judge

January 30, 2015
Columbia, South Carolina